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10/803,286	03/18/2004	Manoj Kumar Singhal	15473US01	5666

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EXAMINER

MONIKANG, GEORGE C

ART UNIT	PAPER NUMBER
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2615

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/803,286	Applicant(s) SINGHAL ET AL.	
	Examiner George C. Monikang	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Amendments to independent claims 1, 6 & 11 necessitated new grounds for rejection in view of Fukumoto's Admitted Prior Art.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-15 (Application No. 10/803,286, hereinafter referred to as '286) are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 copending (Application No. 10/803,420, hereinafter referred to as '420). Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The '286 claims 1-15 are broader recitations of the same invention claimed in '420 claims 1-15. Therefore, '420 claims 1-15 are encompassed by '286 claims 1-15. It is critical that patents issuing from these applications be commonly owned to avoid potential licensees from owing license fees to two different parties.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-2, 4-7, 9-12 & 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukumoto, US Patent Pub. 2003/0171937 A1, in view of

Fukumoto's Admitted Prior Art (hereinafter referred to as FAPA; paras 0021, 0027).

Re Claim 1, Fukumoto discloses a method for slowing down an encoded original audio signal (para 0036), said original audio signal having an original frequency and original playback speed (para 0036), said method comprising: receiving the encoded original audio signal (para 0036); retrieving frames of the original audio signal (para 0036); generating replicated frames for playback at a desired rate (para 0036), applying a window function to the replicated frames (fig. 1: 15 & 16; para 0054; para 0012: paragraph 0012 of the background teaches in detail how the FD/TD converter works); converting the signal with the windowed replicated frames from digital to analog format (fig. 1: 15 & 16; para 0054; para 0012: paragraph 0012 of the background teaches in detail how the FD/TD converter works); and using the original frequency to playback the analog format signal (para 0077: same pitch); but fails to disclose wherein said replicated frames comprise the frames of the original audio signal, wherein at least some of the frames of the original audio signal are repeated. However, FAPA does (para 0027).

Taking the combined teachings of Fukumoto and FAPA as a whole, one skilled in the art would have found it obvious to modify the method for slowing down an encoded original audio signal (para 0036), said original audio signal having an original frequency and original playback speed (para 0036), said method comprising: receiving the encoded original audio signal (para 0036); retrieving frames of the original audio signal (para 0036); generating replicated

frames for playback at a desired rate (para 0036), applying a window function to the replicated frames (fig. 1: 15 & 16; para 0054; para 0012: paragraph 0012 of the background teaches in detail how the FD/TD converter works); converting the signal with the windowed replicated frames from digital to analog format (fig. 1: 15 & 16; para 0054; para 0012: paragraph 0012 of the background teaches in detail how the FD/TD converter works); and using the original frequency to playback the analog format signal (para 0077: same pitch) of Fukumoto with wherein said replicated frames comprise the frames of the original audio signal, wherein at least some of the frames of the original audio signal are repeated as taught in FAPA (para 0027) to suppress noise due to discontinuity in the audio signal.

Re Claim 2, the combined teachings of Fukumoto and FAPA disclose the method according to claim 1 wherein the encoded original audio signal is encoded in the frequency domain using one of a plurality of encoding schemes (Fukumoto, para 0036), the method further comprising frequency-domain decoding of the encoded original audio signal (Fukumoto, para 0036).

Re Claim 4, the combined teachings of Fukumoto and FAPA disclose the method according to claim 1 wherein the desired playback speed is a predefined default value (Fukumoto, para 0072).

Re Claim 5, the combined teachings of Fukumoto and FAPA disclose the method according to claim 1 wherein the desired playback speed is a programmable value (Fukumoto, para 0036).

Claim 6 has been analyzed and rejected according to claim 1.

Claim 7 has been analyzed and rejected according to claim 2.

Claim 9 has been analyzed and rejected according to claim 4.

Claim 10 has been analyzed and rejected according to claim 5.

Claim 11 has been analyzed and rejected according to claim 1.

Claim 12 has been analyzed and rejected according to claim 2.

Claim 14 has been analyzed and rejected according to claim 4.

Claim 15 has been analyzed and rejected according to claim 5.

Claims 3, 8 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukumoto, US Patent Pub. 2003/0171937 A1 Fukumoto's Admitted Prior Art (hereinafter referred to as FAPA; paras 0021, 0027) as applied to claim 2 above, in view of Mesarovic et al, US Patent 6,885,992 B2.

Re Claim 3, the combined teachings of Fukumoto and FAPA disclose the method according to claim 2 wherein said decoding comprises: decoding said encoded signal using a decoding scheme corresponding to said one of a plurality of encoding schemes (Fukumoto, para 0036); but fails to disclose applying an inverse transform to the encoded audio signal; and applying an inverse window function. However, Mesarovic et al does (fig. 5; col. 6, lines 49-59).

Taking the combined teachings of Fukumoto, FAPA and Mesarovic et al as a whole, one skilled in the art would have found it obvious to modify the method according to claim 2 wherein said decoding comprises: decoding said encoded signal using a decoding scheme corresponding to said one of a plurality of encoding schemes (Fukumoto, para 0036) of Fukumoto and FAPA with

applying an inverse transform to the encoded audio signal; and applying an inverse window function as taught in Mesarovic et al (fig. 5; col. 6, lines 49-59) to maintain an equal pitch for audio signals with modified speed.

Claim 8 has been analyzed and rejected according to claim 3.

Claim 13 has been analyzed and rejected according to claim 3.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone

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number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri.
Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax
phone number for the organization where this application or proceeding is
assigned is 571-273-8300.

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George Monikang

2/3/2008


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